

DOCUMENT ELECTRONICALLY FILED

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
BODO PARADY, as Special Administrator of
the Estate of SABINA PARADI and BODO
PARADY and MARY MOORE, individually,

07 CIV 3640 (JCF)
ECF CASE

Plaintiffs,

Magistrate Judge Francis

-against-

AFFIDAVIT

MICHAEL R. PHILLIPS,

Defendants,

-----X
STATE OF NEW JERSEY)

ss:

COUNTY OF HUDSON)

JAMES D. BUTLER, being duly sworn, deposes and says:

1. I am attorney for defendant, Michael R. Phillips, and am familiar with the facts herein.
2. This Affidavit is submitted in support of defendant's opposition to plaintiffs' Motion for Summary Judgment as to liability, pursuant to Civ. R. 56.
3. The cited depositions are portions of sworn testimony given in the course of discovery herein, to wit:

Michael R. Phillips – August 21, 2007
Matthew Blank – August 27, 2007
Maria Eberline – December 18, 2007
Sharlene Aquiler – December 20, 2007

4. The cited portions of the Police Report, Witness Statements, Police photographs, diagram and Complaint Follow-up Informational, were provided by the New York City Police Department pursuant to subpoena served by my office and, as stipulated by plaintiffs' counsel, are records prepared in the course of police investigation of this accident and are kept by the New York City Police Department in the normal course of its practice.

5. Photograph EA was taken by Police Officer Loukopoulos at the scene of the accident as reflected in the Police Photograph Index and Receipt – EXHIBIT "F1".

6. Photographs Plaintiffs' 2, 4 and 6 were marked for identification at the aforesaid deposition of defendant, Michael R. Phillips. Photograph P2 was also marked for identification at the aforesaid deposition of Matthew Blank.

7. The Department of Motor Vehicle's record of Court finding of Not Guilty is a true copy thereof.

DATED: February 1, 2008

s/James D. Butler
James D. Butler, Esq. (JDB/9427)
JAMES D. BUTLER, P.A.
Attorneys for Defendant, Phillips
591 Summit Avenue
Jersey City, New Jersey 07306
(201) 653-1676

Sworn and subscribed to before
me this _____ day of
_____, 2008.
